
(2008) 02 DEL CK 0042

In the Delhi High Court

Case No : LPA 54 of 2008 and CM No's. 1763-64 of 2008

S.P.S. Rana

APPELLANT

Vs

National Seeds Corporation

RESPONDENT

Date of Decision : 05-02-2008

Acts Referred:

Citation : (2007) 99 DRJ 227

Hon'ble Judges : Dr. M.K. Sharma, C.J;Reva Khetrapal, J

Bench : Division Bench

Advocate : Naveen R. Nath, for the Appellant; Sudhir Kulshreshtha, for the Respondent

Final Decision : Dismissed

Judgement

Mukundakam Sharma, C.J.—This appeal is directed against the judgment and order passed by the learned Single Judge dated 22.10.2007. Contention raised before us by the counsel appearing for the appellant is that the respondent cannot impose the punishment of recovery of gratuity payable to the appellant for the grounds taken in the appeal petition. It is contended before us by the counsel that the learned Single Judge failed to consider the aforesaid aspect and, Therefore, the impugned order is liable to be set aside and quashed.

2. We have considered the said submission in the light of the records and also in the light of the impugned judgment and order, which is assailed before us. We have also gone through the contents of the impugned order passed by the learned Single Judge. We find no reason to interfere with the said findings.

3. The appellant has retired from service, but before he could retire from service two departmental proceedings were initiated against him which were pending on the date of his retirement. In view of pendency of the departmental proceedings against him, an order was passed on 30.01.2004 by the respondent that the appellant would stand relieved from service of the respondent on reaching the age of superannuation, but without prejudice to the right of the Corporation to

take such action as deemed fit in regard to the terminal benefits due to the appellant as a result of the departmental proceedings pending against him. The Departmental Authority, Therefore, has relied on the provisions of the rules while allowing the appellant to retire from service on superannuation with the specific stipulation that departmental proceedings pending against the appellant would continue despite the aforesaid retirement. Thus, action was taken by the respondent within the parameters of the provisions of the rules applicable to the appellant.

4. The submission made that the learned Single Judge was not justified in coming to the conclusion that recovery could be made from the gratuity of the appellant has no substance. In our considered opinion, whatever the learned Single Judge has stated was in the light of the interpretation of the provisions of the Act since she has referred to the specific provision made in the conduct rules for withholding payment of gratuity during the pendency of the disciplinary proceedings by the respondent Corporation, which is permitted and is permissible under the provisions of Regulation 46 of the Act.

5. So far the question of punishment is concerned, this is a matter to be looked into only after the conclusion of the inquiry and provided the appellant is found guilty in the said departmental proceedings. This is not the stage when the appellant can argue regarding the nature of punishment that could be imposed by the Departmental Authorities. The appellant will definitely have liberty to argue the same as and when the occasion for the same arises. The findings recorded by the learned Single Judge, Therefore, cannot be assailed on the ground as sought to be urged in the present case.

6. All the findings recorded at this stage in any case are prima facie findings and the same are recorded in view of the submissions made by the counsel appearing for the appellant. We are not inclined to interfere with the aforesaid findings as well. We also refer to the order of the learned Single Judge wherein the learned Single Judge has also issued a clarification that any observation made by her in the order would not be construed as a reflection on the merit of the disputes. The appeal has no merits and is dismissed. The contentions of the counsel appearing for the appellant regarding the nature of punishment could be raised at an appropriate stage, if so required.

7. CM Nos.1763-64/2008 also stand dismissed.